## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL NO. 3:05-CV-401-W

AURA LABRÓ	)	
KARAGIANNOPOULOS,	)	
	)	
Plaintiff,	)	
	) ORI	DER
VS.	)	
	)	
CITY OF LOWELL,	)	
	)	
Defendant.	)	
	)	

THIS MATTER is before the Court *sua sponte* regarding the status of the case. Plaintiff has filed an interlocutory appeal of this Court's order denying a motion for judgment by default (Doc. No. 15). The provision of the United States Code governing interlocutory appeals states:

When a district judge . . . shall be of the opinion that [an interlocutory] order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however*, That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

28 U.S.C. § 1292(b).

Insofar as the *pro se* Plaintiff's "Notice of Appeal" is construed as a motion directed to this Court for certification of an interlocutory appeal, such motion is DENIED. Furthermore, pending disposition of the interlocutory appeal by the United States Court of Appeals for the Fourth Circuit,

the Court exercises its discretion, as provided in 28 U.S.C.  $\S$  1292(b), not to stay progress of the case

pending appeal.

Accordingly, defense counsel is not relieved of her obligation to comply with the Court's 7

November 2006 Show Cause Order. Furthermore, where it appears to the Court that the parties have

failed to comply with Local Rule 16.1 regarding the setting of a case management plan, the parties

are hereby ORDERED to confer pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.1 and jointly

file a certification of initial attorney's conference and a proposed discovery plan on or before 22

December 2006.

IT IS SO ORDERED.

Signed: November 16, 2006

Frank D. Whitney

United States District Judge

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